The Minutes

September 23, 2002

C037223 THE PEOPLE v. ROYSTER, JR. (Not for Publication)

The judgment is amended to reflect two convictions pursuant to subdivision (a) of section 288 and two pursuant to subdivision (b) of that statute. As modified, the convictions are affirmed. The matter is remanded for resentencing, at which time the court shall award 24 days for presentence conduct credits and then forward an amended abstract of judgment to the Department of Corrections.

DAVIS, Acting P.J.

We concur: Raye, J.

Callahan, J.

C038364 THE PEOPLE v. MILLER (Not for Publication)

The judgment is affirmed.

SCOTLAND, P.J.

We concur: Hull, J.

Robie, J.

C038685 THE PEOPLE v. HAYDEN, JR. (Not for Publication)

The judgment of conviction is affirmed. The sentence is vacated and the cause is remanded for resentencing consistent with this opinion. In the new abstract of judgment following resentencing, the trial court is directed to show convictions of five counts of second degree robbery.

CALLAHAN, J.

We concur: Sims, Acting P.J.

Morrison, J.

C039384 THE PEOPLE v. PAYNE (Not for Publication)

The judgment is modified to impose the requirement that defendant register as a sex offender pursuant to Penal Code section 290. As modified, the judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect this modification and to forward a certified copy of the amended abstract to the Department of Corrections.

SCOTLAND, P.J.

We concur: Davis, J.

Kolkey, J.

C039698 THE PEOPLE v. HAMMETT (Not for Publication)

The judgment is affirmed. The trial court is directed to amend the abstract of judgment, as well as the minute order dated September 4, 2001, to conform to the court's oral pronouncement of judgment, by deleting the section 1202.4 and section 1202.45 restitution fines. The court is further directed to forward a certified copy of the amended abstract to the Department of Corrections.

SCOTLAND, P.J.

We concur: Davis, J.

Kolkey, J.

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September 23, 2002, continued

C039993 THE PEOPLE v. COX, JR. (Not for Publication)

The judgment is affirmed.

CALLAHAN, J.

We concur: Sims, Acting P.J.

Morrison, J.

C038494 MOOSA v. STATE PERSONNEL BOARD and CALIFORNIA STATE UNIVERSITY, CHICO (Not for Publication)

The judgment is reversed and the case is remanded to the superior court with directions to enter a judgment granting the petition for writ of mandate. The superior court is further directed to consider Professor Moosa's request for attorney fees and other relief. Professor Moosa is awarded his costs on appeal in an amount to be determined by the trial court. (Cal. Rules of Court,

rule 26 (a) (1).) ROBIE, J.

We concur: Blease, Acting P.J.

Sims, J.

C038733 In re M.J. et al.; BUTTE COUNTY CHILDREN'S SERVICES DIVISION v. M.J. (Not for Publication)

The May 2, 2001, orders are affirmed.

RAYE, J.

We concur: Scotland, P.J.

Callahan, J.

C038770 In re Z.C.; THE PEOPLE v. Z.C. (Not for Publication)

The judgment (order committing the minor to the CYA) is affirmed.

SCOTLAND, P.J.

We concur: Davis. J.

Robie, J.

The Minutes

September 23, 2002, continued

C040039 In re JACOB S.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. JACOB S. (Not for Publication)

The juvenile court's finding that the father is the minor's presumed father is reversed, and the matter is remanded for a new dispositional hearing. If, at the new hearing, evidence shows that a voluntary declaration of paternity in compliance with the requirements of Family Code section 7570 et seq. has been filed with the Department of Child Support Services, the juvenile court shall reinstate its finding that the father is the minor's presumed father. If the father fails to present such evidence and does not show by a preponderance of evidence that he is a presumed father within any of the other provisions of Family Code section 7611, the juvenile court shall determine whether offering the father reunification services will benefit the minor. (Welf. & Inst. Code, § 361.5, subd. (a) [services for biological father].) In making the determinations concerning the father's presumed father status or the minor's best interests, the juvenile court shall consider circumstances as they exist at the time of the new hearing.

SCOTLAND, P.J.

We concur: Raye, J.

Sims, J.

C040322 In re NORMAN G. MORRALL on Habeas Corpus.

(Certified for Publication)

The petition for a writ of habeas corpus is denied. Having served its purpose, the order to show cause previously issued is discharged with the finality of this decision.

SCOTLAND, P.J.

We concur: Blease, J.

Hull, J.

September 24, 2002

C037984 THE PEOPLE v. RUGGLES

(Not for Publication)

The judgment is affirmed.

BLEASE, Acting P.J.

We concur: Davis, J.

Morrison, J.

The Minutes

September 24, 2002, continued

C038452 THE PEOPLE v. SIMS (Not for Publication)

The conviction and special finding on the allegation that defendant had a serious felony conviction for violating section 245, subdivision (c), are affirmed. The finding that defendant had a prior serious felony conviction for section 245, subdivision (a) (1), is reversed. The sentence is vacated, and the matter is remanded for resentencing consistent with this opinion. Defendant is not precluded from moving to reduce his receiving stolen property conviction to a misdemeanor. Nothing in this opinion should be construed as expressing an opinion concerning the trial court's discretion in ruling on such a motion.

ROBIE, J.

We concur: Scotland, P.J.

Hull, J.

C038632 THE PEOPLE v. SCHIED (Not for Publication)

The judgment is affirmed.

MORRISON, J.

We concur: Sims, Acting P.J.

Kolkey, J.

C039082 THE PEOPLE v. DELOZIER (Not for Publication)

The judgment is affirmed.

MORRISON, J.

We concur: Blease, Acting P.J.

Hull, J.

C040571 THE PEOPLE v. VALDIVIA (Not for Publication)

The judgment is affirmed.

MORRISON, J.

We concur: Sims, Acting P.J.

Callahan, J.

C039145 PRONECHEN v. PRONECHEN (Not for Publication)

The judgment is reversed and the case is remanded for division of the

community property consistent with this opinion. Costs are awarded to appellant.

BLEASE, Acting P.J.

We concur: Sims, J.

Robie, J.

C039059 In re BENJAMIN F.; DEPARTMENT OF HEALTH AND HUMAN SERVICES v. STEPHANIE F. (Not for Publication)

The order of the juvenile court is affirmed.

MORRISON, J.

We concur: Sims. Acting P.J.

Callahan, J.

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September 24, 2002, continued

C039786 TERESA J. et al. v. THE SUPERIOR COURT OF SACRAMENTO COUNTY and D.J. et al. (Certified for Publication)

Let a preemptory writ of mandate issue directing the juvenile court to vacate its order of October 30, 2001, declaring the relinquishment to be invalid and to hold a new hearing to determine whether Teresa's parental control over the minor should be limited so as to make the relinquishment invalid. The stay issued by this court on December 7, 2001, is vacated. The alternative writ issued on March 25, 2002 is discharged. This opinion is final immediately as to this court. (Cal. Rules of Court, rule 24 (d).) The parties shall bear their own costs.

MORRISON, J.

We concur: Scotland, P.J.

Callahan, J.

C039527 In re F.W.; THE PEOPLE v. F.W. (Not for Publication)

The order committing the minor to CYA is reversed and the matter remanded to the juvenile court for further proceedings in conformity with this opinion.

RAYE, J.

We concur: Scotland, P.J.

Callahan J.

C039556 LANDMARK INNOVATIVE INDUSTRIES, INC. v. SOUTH TRUST BANK BY THE COURT:

Landmark has filed a petition for rehearing, raising a number of arguments. Only one merits a response... Appellant's petition for rehearing is denied.

BLEASE, A.P.J.

<u>September 25, 2002</u>

C038351 THE PEOPLE v. CLOTFELTER (Not for Publication)

The order committing the defendant to a secure facility for a two-year term is affirmed.

DAVIS, J.

We concur: Blease, Acting P.J.

Morrison, J.

C038457 THE PEOPLE v. RANGER INSURANCE COMPANY

(Not for Publication)

There is no change in the judgment. The petition for rehearing is denied.

BLEASE, Acting P.J.

We concur: Sims, J.

Nicholson, J.

The Minutes

September 25, 2002, continued

C038653 THE PEOPLE v. HENDERSON (Not for Publication)

The judgment is affirmed.

CALLAHAN, J.

We concur: Sims, Acting P.J.

Morrison, J.

C038275 JAXON ENTERPRISES v. DEPARTMENT OF TRANSPORTATION and TIDEWATER CONTRACTORS, INC. (Not for Publication)

The judgment is affirmed. CalTrans and Tidewater shall receive their costs on

appeal.

SIMS, J.

We concur: Blease, Acting P.J.

Morrison, J.

C038913 LOPEZ v. GOURLEY, as Director of the Department of Motor Vehicles (Not for Publication)

The judgment is reversed. Each side shall bear their own costs on appeal.

(Cal. Rules of Court, rule 26 (a).)

ROBIE, J.

We concur: Sims, Acting P.J.

Callahan, J.

C037044 DICK v. PACIFIC HEIGHTS TOWNHOUSES et al. and HUBER PROPERTY MANAGEMENT (Not for Publication)

The case is remanded to the trial court to determine when, if at all, the premises were uninhabitable and to calculate the amount of the rent to be abated. In all other respects, the judgment is affirmed. The parties shall bear their own costs on appeal.

RAYE. J.

We concur: Scotland, P.J.

Hull, J.

September 26, 2002

At 10:10 a.m., the court met at Amos Alonzo Stagg High School, Stockton, California for a special court calendar session. Present: Callahan, Acting Presiding Justice; Kolkey, Associate Justice; Robie, Associate Justice; and Kenner, Bailiff. Calendar Called.

C038278 THE PEOPLE v. HAYNES

Cause called. A.M. Weisman, court appointed counsel, argued for appellant. Justain P. Riley, Deputy Attorney General, argued for respondent. Cause submitted.

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September 26, 2002, continued

C040496 MANTECANS FOR PRESERVATION OF OPEN SPACE v. CITY OF

MANTECA et al.

Cause called. Donald B. Mooney, argued for appellant. Gary Meredith Lepper, argued for respondents. Cause submitted.

C038523 THE PEOPLE v. ALFARO

Cause called. Richard Power, court appointed counsel, argued for appellant. David A. Lowe, Deputy Attorney General, argued for respondent. Cause submitted.

C036000 PICHLER v. SIMMONS et al.

Cause called. Kimball J. P. Sargeant argued for appellants. Jeremy R. Fietz argued for respondent. Cause submitted.

At 1:45 p.m., the court recessed until 9:30 a.m., Monday, October 21, 2002.

C036774 THE PEOPLE v. MARTINEZ (Not for Publication)

A prior prison term enhancement (one -year) is stricken; as a result, enhancements total one year. Defendant's indeterminate term of 25 years to life remains the same. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections. As modified, the judgment is affirmed.

DAVIS, J.

I concur: Nicholson, J.

I concur in the judgment and in the opinion except as to Part II, in which I concur in the result.

Blease, Acting P.J.

C039079 THE PEOPLE v. ANGUAY (Not for Publication)

The judgment setting aside the information and dismissing the action against defendant is affirmed.

SCOTLAND, P.J.

We concur: Hull, J.

Robie, J.

C038098 THE PEOPLE v. NIETO

(Not for Publication)

The judgment is affirmed.

DAVIS, Acting P.J.

We concur: Morrison, J.

Kolkey, J.

The Minutes

September 26, 2002, continued

C038786 THE PEOPLE v. SPRUELL (Not for Publication)

The judgment (order denying outpatient status) is affirmed.

DAVIS, J.

We concur: Scotland, P.J.

Kolkey, J.

C038061 MORRISON CREEK MINING OPPOSITION v. COUNTY OF SACRAMENTO

and GRANITE CONSTRUCTION COMPANY, INC. et al.

(Not for Publication)

The judgment is affirmed. Respondents shall recover their costs on appeal.

(Rule 26 (a).)

SIMS, Acting P.J.

We concur: Raye, J.

Kolkey, J.

C038576 THE PEOPLE v. HASS (Not for Publication)

THE COURT:

It is ordered that the opinion filed herein on August 28, 2002, be modified as follows... There is no change in the judgment.

Defendant's petition for rehearing is denied.

FOR THE COURT:

BLEASE, Acting P.J.

Morrison, J.

Hull, J.

September 27, 2002

C038702 THE PEOPLE v. GRISSOM (Not for Publication)

The judgment is affirmed.

HULL, J.

We concur: Scotland, P.J.

Sims, J.

C033600 THE PEOPLE v. GRAYSON (Not for Publication)

The judgment is affirmed.

HULL, J.

We concur: Scotland, P.J.

Nicholson, J.

The Minutes

September 27, 2002, continued

C030059 HILLENBRAND, INC., et al. v. INSURANCE COMPANY OF NORTH AMERICA et al. (Certified for Publication)

The judgment in favor of INA is reversed. The judgment in favor of Hillenbrand but reducing the award of punitive damages is affirmed. Hillenbrand is awarded

costs on appeal. [CERTIFIED FOR PUBLICATION.]

RAYE, J.

We concur: Sims, Acting P.J.

Nicholson, J.

C039510 BAXTER v. BAXTER (Not for Publication)

The judgment is affirmed.

SCOTLAND, P.J.

We concur: Blease, J.

Hull, J.

C040512 In re JENNIFER H.; DEPARTMENT OF HEALTH AND HUMAN SERVICES v. ELBA E. (Not for Publication)

The orders of the juvenile court are affirmed.

BLEASE, Acting P.J.

We concur: Hull, J.

Robie, J.